IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPLICATION NO. 2757 OF 2007

Mohammed Arif Kamruddin Shaikh. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

Ms.Tripti Shetty for the applicant.

K.V.Saste, APP for the State.

CORAM: V.C.DAGA, J.

DATED: 9th October 2007.

P.C.:

. Heard learned counsel for the applicant and learned A.P.P. for the State.

2. The applicant is seeking bail in connection with CR.No.24/1996 registered with D.C.B., C.I.D., Mumbai for the offences punishable under sections 3, 7, 25 and 27 of the Arms Act.

3. The applicant was already granted bail by the Addl.Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai. Accordingly, he executed cash bond of Rs.10,000/-. Thereafter the case was committed to the Sessions Court, The applicant did not remain present. It appears that sometime in the month of

July, 2007, he came to be arrested since he did not attend Sessions Court. He was shown as absconding. After arrest, he applied for bail under section 439 of Cr.P.C. That application came to be rejected vide order dated 27th July, 2007 passed by the Additional Sessions Judge, Mumbai mainly on the ground that he was absconding.

4. The learned counsel appearing for the applicant pointed out that after enlargement on bail by the Magistrate Court, the applicant was never informed as to when the case came to be committed to the Sessions Court. She further submits that the applicant is a permanent resident of the address given in the application from where he was arrested in the month of July, 2007. She further submits that there is no material to show that the applicant was absconding. Under these circumstances, she submits that rejection of bail application of the applicant by the Sessions Court is unsustainable in law.

5. During the course of hearing some of the papers showing permanent residential address of the applicant were shown, zerox copies of which were also filed on record, the copies of which were also given to the learned A.P.P. for verification. The learned A.P.P., after going through the papers, on instruction from the investigating officer, confirms that the

applicant with his wife is staying at the address given in the application. Statements of the neighbours were also recorded who also confirmed about his residence.

6. In the above view of the matter, the applicant, who was already on bail and was arrested thereafter, would be entitled to bail. In these circumstances of the case, I am inclined to grant bail to the applicant, however, subject to following stringent conditions:

(a) The applicant, arrested in connection with C.R.No.24/2007 registered with D.C.B., C.I.D., Mumbai shall be enlarged on bail on his executing P.R.Bond of Rs.10,000/- with two local solvent sureties to make up the said amount.

(b) The applicant shall report to the concerned Police Station twice a week, i.e. on every Monday and Friday between 4.00 to 5.00 p.m. till conclusion of the trial. He shall co-operate with the investigating agency for disposal of the case.

(c) The order of bail will be given effect

only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the investigating officer.

(d) The applicant shall not directly or indirectly, make any inducement or threat or pressurise any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

(e) It is needless to mention that breach of any of the conditions by the applicant shall result in cancellation of bail.

(f) Any observation made in this order shall not be construed as finding or expression on merits of the case at the time of trial.

7. Application stands disposed of accordingly.

JUDGE